

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NORTH CAROLINA
SOUTHERN DIVISION

Akers v. United States of America	7:23-cv-120-BO
Benson v. United States of America	7:23-cv-96-BO
Breen v. United States of America	7:23-cv-83-BO
Brooks v. United States of America	7:23-cv-89-BO
Brundage v. United States of America	7:23-cv-62-BO
Burak et al v. United States of America	7:23-cv-42-BO
Clark v. United States of America	7:23-cv-99-BO
Davis et al v. United States of America	7:23-cv-43-BO
Glover v. United States of America	7:23-cv-114-BO
Green v. United States of America	7:23-cv-116-BO
Guinn v. United States of America	7:23-cv-72-BO
Hobbs v. United States of America	7:23-cv-40-BO
Holmes v. United States of America	7:23-cv-29-BO
Johnson v. United States of America	7:23-cv-30-BO
Luthy v. United States of America	7:23-cv-93-BO
McClain v. United States of America	7:23-cv-73-BO
Palumbo v. United States of America	7:23-cv-74-BO
Partain v. United States of America	7:23-cv-110-BO
Perry v. United States of America	7:23-cv-103-BO
Richards v. United States of America	7:23-cv-103-BO
Shine v. United States of America	7:23-cv-23-BO
Tomilson v. United States of America	7:23-cv-63-BO
Warren v. United States of America	7:23-cv-91-BO
Wax v. United States of America	7:23 cv-84-BO
Weiner v. United States of America	7:23-cv-95-BO
Bailey v. United States of America	7:23-cv-151-BO
Bailey v. United States of America	7:23-cv-149-BO
Loftus v. United States of America	7:23-cv-140-BO
Neely v. United States of America	7:23-cv-139-BO
Straw v. United States of America	7:23-cv-162-BO
Weeks v. United States of America	7:23-cv-154-BO

APRIL 17, 2023
ORAL ORDER on MOTIONS
BEFORE THE HONORABLE TERRENCE W. BOYLE
UNITED STATES DISTRICT JUDGE

On behalf of the Defendant:

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Stenomask with computer-aided transcription

1 (Monday, April 17, 2023, proceedings begin at 11:59 a.m.)

2 (Call to Order of the Court.)

3 THE COURT: This Court scheduled a hearing at noon
4 today on the cases of Akers, Benson, Breen, Brooks, Brundage,
5 Burak, Clark, Davis, Glover, Green, Guinn, Hobbs, Holmes,
6 Johnson, Luthy, McClain, Palumbo, Partain, Perry, Richards,
7 Shine, Tomilson, Warren, Wax, Weiner, Bailey, Bailey, Loftus,
8 Neely, Straw, Weeks, all versus the United States. They have
9 corresponding file numbers. The Government has not responded
10 in these cases. They've been served and it's my understanding
11 that the time for answer or other reply under the federal rules
12 and statutes will expire either on the 14th, 15th -- no, not
13 14th -- 15th, 16th, or 18th of April, the Government having the
14 right to answer within 60 days after effective service. The
15 Government has filed a motion to enlarge the time within which
16 to answer and that is before the Court and that is the purpose
17 of this order.

18 I'll take judicial notice of the fact that there is
19 an administrative proceeding going on involving the PACT Act
20 cases, that the statute creating the right under which the
21 plaintiffs bring suit provides for filing of an administrative
22 claim as a prerequisite to jurisdiction in this court and that
23 parties who have filed claims but whose claims have not been
24 resolved after six months pending in the administrative
25 proceeding are entitled to sue in this court. And assumedly

1 that represents all of the pending cases that I have just
2 identified.

3 The reality of that is clear that assumedly in each
4 and every one of these cases, six months have expired within
5 the administrative process and now either 59 or 60 days or 61
6 days have expired in this court without response or
7 intervention or resolution by the Defendant, United States.
8 And so, after eight months of nonactivity in each and every one
9 of these claims, it's not readily apparent that the Government
10 needs additional time. Eight months should be sufficient. And
11 certainly, two months within this court's jurisdiction should
12 be sufficient.

13 But out of an abundance of caution and in order to
14 cooperate with the matters that are pending in this district, I
15 will enlarge the time within which to file a responsive
16 pleading under the Federal Rules of Civil Procedure and law to
17 April 30th of 2023. And an order to that effect will be
18 entered right now.

19 So I see the Government is here. Do you want to add
20 anything to this?

21 MS. O'HALE: No, Your Honor. I'm from the U.S.
22 Attorney's office. Main Justice is in the charge of
23 litigation, but I've shown up in case you needed us.

24 THE COURT: Well, you are the Government.

25 MS. O'HALE: Correct, Your Honor.

1 THE COURT: Yeah. Okay. So it was not ex parte. It
2 was with the Government appearing. Okay. Thank you.

3 The court will be in recess.

4 (Proceedings concluded at 12:04 p.m.)

5

6 (END OF TRANSCRIPT.)

7

NORTH CAROLINA
JOHNSTON COUNTY

I CERTIFY THAT THE FOREGOING IS A TRUE AND ACCURATE TRANSCRIPT
OF SAID PROCEEDINGS.

/s/ CAROLYN E. HIGH 04/17/23
CAROLYN E. HIGH DATE
Contract Court Reporter